IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : Crl. Misc. No.16448-M of 2006
Date of Decision : February 15, 2007.

Raj Kaur ..... Petitioner

Vs.

State of Punjab and others ..... Respondents

Coram : Hon'ble Mr.Justice Mahesh Grover

* * *

Present : Mr.Hitesh Ghai, Advocate
for the petitioner.

Mr.Ashutosh Hoshiarpuri, AAG, Punjab.

Mr.Rajpal Sharma, Advocate
for respondents no.5 to 7.

* * *

MAHESH GROVER, J. (Oral) :

This is a petition under Section 482 of the Cr.P.C., praying for issuance of appropriate directions to the concerned official respondents no.1 to 4 to register the FIR against respondents no.5 to 7 under the relevant provisions of law after ascertaining the cause of death of the husband of the petitioner.

A complaint was submitted by the petitioner to the respondents alleging that her husband has been murdered by respondents no.5 to 7 who had given him beatings. It was the case of the petitioner that her husband had gone to attend to her duty at 8:30 A.M. on his bicycle. At about 3:30 P.M., Ajmer Singh son of Roor Singh and Ujagar Singh son of Hazara Singh came to her house and informed her that her husband Nirmal Singh was lying in an unconscious state on the kachha road near Walia Farm.

They also informed her that he had been beaten up with lathis and hockey sticks and it seemed that he was dead. The petitioner sent her children to the site with a cart, who brought him to the house where he died. The villagers informed the Police Station Sohana about the mishappening and also informed them that respondents no. 5 and his brother had threatened the petitioner's husband to kill him on an earlier occasion. The information was also given to the police that when the deceased Nirmal Singh had left for duty, the aforesaid persons had followed him with hockey sticks and lathis.

Since no case was registered against the accused persons, the petitioner was constrained to approach the Chairman, Punjab Human Rights Commission, for registration of the case under Section 302 IPC against the accused persons. The matter was referred to the Additional Director General of Police (ADGP) of the Commission for investigation. The Senior Superintendent of Police (SSP), Ropar submitted a report dated 20.11.2004, to the Commission in which it was stated that the accused persons namely Om Parkash and his brother Kulbhushan were found to be innocent and that the deceased was an alcoholic and he was heavily drunk. The probability expressed in the report was that he might have died on account of heavy consumption of liquor or some intoxicants.

The petitioner did not accept the report and the matter was referred to ADGP of the Commission for investigation and another inquiry was got conducted by the SSP (Detective) who also did not support he allegations of the complainant. In the meantime, the report of the Chemical Examiner had also come on record which revealed that the cause of death was due to poisoning. The police, even thereafter, did not register any case.

Once an unnatural death is reported to the police, it is bounded duty of the Investigating Officer to investigate the matter and come to a positive conclusion whether such an unnatural death was homicidal, accidental or as a result of suicide. In the instant case, the Chemical Examiner's report establishes that the death was on account of consumption

of chloro-compound. In view of this, the police could not have ignored the findings and leave the cause of death to probabilities. They were bound to register a case and after investigation, establish the reason for the cause of death. In the eventuality of death being on account of homicide, the case ought to have been registered against the culprits who were responsible for causing the death and in the eventuality of death being termed on account of suicide, even then the necessary conclusion should have been recorded. But under no circumstances could the police shirk its duty by not registering a case once the commission of cognizable offence has been shown. The Hon'ble Supreme Court in a judgment reported as ***2006 (2) SCC 677*** has observed as under :-

> ***"4.*** *That a police officer mandatorily registers a case on a complaint of a cognizable offence by the citizen under Section 154 of the Code is no more res integra. The point of law has been set at rest by this Court in* State of Haryana v. Bhajan Lal. *This Court after examining the whole gamut and intricacies of the mandatory nature of Section 154 of the Code has arrived at the finding in paras 31 and 32 of the judgment as under : (SCC pp.354-55)*
>
> > *"31. At the stage of registration of a crime or a case on the basis of the information disclosing a cognizable offence in compliance with the mandate of Section 154(1) of the Code, the police officer concerned cannot embark upon an enquiry as to whether the information, laid by the informant is reliable and genuine or otherwise and refuse to*

register a case on the ground that the information is not reliable or credible. On the other hand, the officer in charge of a police station is statutorily obliged to register a case and then to proceed with the investigation if he has reason to suspect the commission of an offence which he is empowered under Section 156 of the Code to investigate, subject to the proviso to Section 157. (As we have proposed to make a detailed discussion about the power of a police officer in the field of investigation of a cognizable offence within the ambit of Sections 156 and 157 of the Code in the ensuing part of this judgment, we do not propose to deal with those sections in extenso in the present context.) In case, an officer in charge of a police station refuses to exercise the jurisdiction vested in him and to register a case on the information of a cognizable offence reported and thereby violates the statutory duty cast upon him, the person aggrieved by such refusal can send the substance of the information in writing and by post to the Superintendent of Police concerned who if satisfied that the information forwarded to him discloses a cognizable offence, should either investigate the case himself or direct an investigation to be made by any police officer subordinate to

him in the manner provided by sub-section (3) of Section 154 of the Code.

32. Be it noted that in Section 154 (1) of the Code, the legislature in its collective wisdom has carefully and cautiously used the expression `information' *without qualifying the same as in Section 41 (1) (a) or (g) of the Code wherein the expressions,* `reasonable complaint′ *and* `credible information′ *are used. Evidently, the non-qualification of the word* `*information*' *in Section 154(1) unlike in Section 41(1) (a) and (g) of the Code may be for the reason that the police officer should not refuse to record an information relating to the commission of a cognizable offence and to register a case thereon on the ground that he is not satisfied with the reasonableness or credibility of the information. In other words,* `*reasonableness' or `credibility' of the said information is not a condition precedent for registration of a case. A comparison of the present Section 154 with those of the earlier Codes will indicate that the legislature had purposely thought it fit to employ only the word `information' without qualifying the said word. Section 139 of the Code of Criminal Procedure of 1861 (Act 25 of 1861) passed by the Legislative Council of*

India read that `every complaint or information' *preferred to an officer in charge of a police station should be reduced into writing which provision was subsequently modified by Section 112 of the Code of 1872 (Act 10 of 1872) which thereafter read that `every complaint' preferred to an officer in charge of a polce station shall be reduced in writing. The word `complaint' which occurred in previous two Codes of 1861 and 1872 was deleted and in that place the word `information' was used in the Codes of 1882 and 1898 which word is now used in Sections 154, 155, 157 and 190(c) of the present Code of 1973 (Act 2 of 1974). An overall reading of all the Codes makes it clear that the condition which is sine qua non for recording a first information report is that there must be an information and that information must disclose a cognizable offence."*

(emphasis in original)

Finally, this Court in para 33 said : (SCC p.355)

"33. It is, therefore, manifestly clear that if any information disclosing a cognizable offence is laid before an officer in charge of a police station satisfying the requirements of

> *Section 154(1) of the Code, the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information."*

Therefore, the petition is disposed of with a direction to respondents no. 1 to 4 to register the FIR under the relevant provisions of law.

February 15, 2007 **(MAHESH GROVER)**
monika **JUDGE**